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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/086,821 05/29/98 LARA

M ATV-004

EXAMINER

TM02/0116

PATENT ADMINISTRATOR

SALAD, A

ART UNIT

PAPER NUMBER

HIGH STREET TOWER

125 HIGH STREET

2153

BOSTON, MA 02110

DATE MAILED:

01/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/086,821

Applicant(s)

Lara et al

Examiner
Abdullahi Salad

Group Art Unit
2153



☒ Responsive to communication(s) filed on Dec 18, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-25 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-25 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 13

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Response to Amendment

1. The Amendment filed on 12/18/2000 has been entered and made of record.
2. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless--

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-25, are rejected under 35 U.S.C. 102(e) as being anticipated by O'Neil et al U.S. Patent No. 6,128,279.

As per claim 1, 15 and 20, Colby et al discloses a system for distributing browser for web pages among two or more servers, comprising:

- monitoring the web servers to determine if a predetermined condition (load metrics) exist at one or more of the web servers (see the abstract, and col. 3, lines 18-67, col. 6, line 11 to col. 7, line 32); and

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- if the predetermined condition does exist at least one of the web servers, transferring at least one requests from the web server to another of the web server (see the abstract, and col. 3, lines 18-67, col. 6, line 11 to col. 7, line 32).

In considering claim 6, O'Neil et al, further discloses a system, wherein the monitoring step comprises monitoring the system load of the host running the web server (see col. 3, lines 18-67).

In considering claims 9, 10, 11 and 16, O'Neil et al further discloses a system wherein the transferring step comprises transferring only if the request page is for one predetermined pages (see col. 4, lines 1-42).

In considering claims 12 and 13, O'Neil et al discloses a system, wherein the transferring step comprises:

determining whether the web page (content) is included in a list of pages that have state (see col. 4, lines 1-42); and

transferring only if the web page is not included in the list (see col. 4, lines 1-42).

In considering claim 14, O'Neil et al further discloses a system wherein the predetermining condition comprises a failure (see col. 4, lines 1-22).

In considering claims 19, 21, 22 and 25, O'Neil et al further disclose a system including web server interface, wherein the web server interface causes the web server to transfer the at least one web server to redirect browser requests (see col. 6, lines 11-67 to col. 7, line 32).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 7-8, 17-18, 23-24, are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al U.S. Patent No. 6,006,264 as applied to claims 1 and further in view of Haggard et al U.S. Patent No. 6,148,335.

In considering claims 2-5, 7-8, 17-18 and 23-24. O'Neil et al discloses a system of distributing requests for web pages among two or more web servers substantially as claimed, including the step monitoring a predetermined condition such as load of the web servers.

O'Neil et al, is silent as to how the predetermined load conditions being monitored.

Nonetheless, it is well known in the art to monitor the load by monitoring any of the following predetermined conditions:

CPU utilization, memory utilization, request queue delay, and queue request length, as evidenced by Haggard et al.

Haggard et al discloses a system for monitoring network servers by collecting data from statistical parameters such as CPU utilization, memory utilization, request queue delay, and queue request length. The data is being analyzed to generate historical performance data and

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reporting the performance data to another network node (see the abstract and col. 7, line 64 to col. 8, line 7). Therefore, it would have been obvious to one having ordinary skill in the art to modify O'Neil et al, by employing the teaching of Haggard et al so as to use any of (or combination there of) the statistical parameters such as CPU utilization, memory utilization, request queue delay and queue request length to determine the productivity of the system.

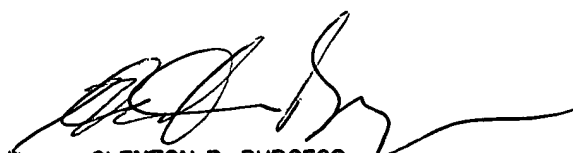
CONCLUSION

7. The prior art made of record and relied upon is considered pertinent to the applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on **Monday to Friday from 8:30AM to 5:00PM**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Glen Burgess**, can be reached at **(703)305-4792**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)305-3900**.

AES

1/5/2000


GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100